

Sec. 30.71. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Automotive vehicle shall mean and include, but shall not be limited to, instruments of conveyance such as automobiles, trucks, buses, tractors (crawler and pneumatic tired types), motorcycles, motorscooters, automotive industrial trucks, Ross Carriers, lift trucks, locomotive cranes, airplanes motorboats with built-in motors, boats with outboard-type motors attached thereto by attachments intended to be permanent rather than readily removable and which motors are controlled with remote controls built on or into the hull of such boat. "Automotive vehicles" shall also include power shovels, ditchers and similar machines which are self-propelled, but which are not primarily used as instruments of conveyance.

Business shall include all activities engaged in, or caused to be engaged in, with the object of gain, profit, benefit or advantage, either direct or indirect, and not excepting subactivities producing marketable commodities used or consumed in the main business activity, each of which subactivities shall be considered business engaged in, taxable in the class in which it falls.

City means the City of Anniston, Alabama and the police jurisdiction thereof.

In this city or in the city means within the exterior limits of the City of Anniston.

Person or company, herein used interchangeably, includes any individual, firm, copartnership, association, corporation, receiver, trustee or any other group or combination acting as

***Note**—See the editor's footnote to the title of this article.

State law references—Authority of city to levy sales and use taxes parallel to law, Code of Ala., § 11-51-200 et seq.; state use tax, Code of Ala. § 40-23-60 et seq.
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a unit and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

Purchase means acquired for a consideration, whether such acquisition was effected by a transfer of title, or of possession or of both, or a license to use or consume; whether such transfer shall have been absolute or conditional, and by whatsoever means the same shall have been effected; and whether such consideration be a price or rental in money, or by way of exchange or barter.

Revenue director means the revenue director of the City of Anniston, Alabama.

Sale at retail or *retail sale* shall mean all sales of tangible personal property except those above defined as wholesale sales. The quantities of goods sold or prices at which sold are immaterial in determining whether or not a sale is at retail. Sales of building materials to contractors, builders, or landowners for resale or use in the form of real estate are retail sales in whatever quantity sold. Sales of building materials, fixtures or other equipment to a manufacturer or builder of modular buildings for use in manufacturing, building or equipping a modular building ultimately becoming a part of real estate situated in the city are retail sales, and the use, sale or resale of such building shall not be subject to the tax. Sales of tangible personal property to undertakers and morticians are retail sales and are not subject to the tax on resale to the consumer. Sales of tangible personal property or products to manufacturers, quarry operators, mine operators or compounders, which are used or consumed by them in manufacturing, mining, quarrying or compounding and do not become an ingredient or component part of the tangible personal property manufactured or compounded are retail sales.

Sales price means the total amount for which tangible personal property is sold, including any services (including transportation) that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest charged, losses or any other expenses whatsoever; provided, that cash discounts allowed and taken on sales shall not be included and sales price shall not include the amount charged for property returned by customers when the entire amount charged therefor is refunded either in cash or by credit.

Storage means and includes any keeping or retention in this city for any purpose except sale in the regular course of business or subsequent use solely outside this city of tangible personal property purchased at retail.

Use means and includes the exercise of any right or power over tangible personal property incident to the ownership of that property, or by any transaction where possession is given, except that it shall not include the sale of that property in the regular course of business.

Wholesale sale or *sale at wholesale* means any one of the following: a sale of tangible personal property by wholesaler to licensed retail merchants, jobbers, dealers, or other wholesalers for resale and does not include a sale by wholesalers to users or consumers, not for resale; a sale of tangible personal property or products (including iron ore) to a manufacturer or compounder which enter into and becomes an ingredient or component part of the tangible

personal property or products which such manufacturer or compounder manufactures or compounds for sale, and the furnished container and label thereof; a sale of containers intended for one-time use only, and the labels thereof, when such containers are sold without contents to persons who sell or furnish such containers along with the contents placed therein for sale by such persons; a sale of pallets intended for one-time use only when such pallets are sold without contents to persons who sell or furnish such pallets along with the contents placed thereon for sale by such persons; a sale to a manufacturer or compounder of crowns, caps, and tops intended for one-time use employed and used upon the containers in which such manufacturer or compounder markets his products; a sale of containers to persons engaged in selling or otherwise supplying or furnishing baby chicks to growers thereof where such containers are used for the delivery of such chicks or a sale of containers for use in the delivery of eggs by the producer thereof to the distributor or packer of such eggs even though such containers used for delivery of baby chicks or eggs may be recovered for reuse; a sale of bagging and ties used in preparing cotton for market; a sale of commercial fish feed including concentrates, supplements, and other feed ingredients when such substances are used as ingredients in mixing and preparing feed for fish raised to be sold on a commercial basis; a sale of tangible personal property to any person engaging in the business of leasing or renting such tangible personal property to others, if such tangible personal property is purchased for the purpose of leasing or renting it to others under a transaction subject to the privilege or license tax levied in Article 4, Chapter 12, Title 40, Code of Alabama, 1975, against any person engaged in the business of leasing or renting tangible personal property to others. The term "wholesale sale" or "sale at wholesale" shall also be deemed to include a purchase or withdrawal of parts or materials from stock by any person licensed under this ordinance where such parts or materials are used in repairing or reconditioning the tangible personal property of such licensed person which tangible personal property is a part of the stock of goods of such licensed person, offered for sale by him and not for use or consumption of such licensed person.

Sec. 30.72. Property taxed; persons liable.

(a) An excise tax is hereby imposed on the storage, use or other consumption in this city of tangible personal property (not including, however, materials and supplies bought for use in fulfilling a contract for the painting, repairing or reconditioning of vessels, barges, ships and other watercraft of more than fifty (50) tons burden) purchased at retail on or after the first day of October, 1993, for storage, use or other consumption in this city at the rate of four (4) percent of the sales price of such property, except as provided in subsections (b) and (c).

Where the storage, use or other consumption in the city is subject to a contract entered into prior to November 1, 1991, a partial deduction of one-seventh of the taxable gross proceeds (equal to one-half percent of the tax rate) shall be granted for the purpose of the tax computation. Provided, however, that such exemption shall not be extended by renewals of the contract and shall not apply in any case for a period extending beyond March 31, 1992.

(b) An excise tax is hereby imposed on the storage, use or other consumption in this city of any machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property, purchased at retail on or after April 1, 1991, at the rate of one-half

of one (0.0050) percent of the sales price of any such machine; provided, that the term "machine," as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

(c) An excise tax is hereby imposed on the storage, use or other consumption in this city of any automotive vehicle or truck trailer, semitrailer or house trailer purchased at retail on or after April 1, 1991, for storage, use or other consumption in this city at the rate of three-quarters of one (0.0075) percent of the sales price of such automotive vehicle, truck trailer, semitrailer or house trailer. Where any used automotive vehicle or truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

Every person storing, using or otherwise consuming in this city tangible personal property purchased at retail shall be liable for the tax imposed by this division, and the liability shall not be extinguished until the tax has been paid to this city; provided, however, that a receipt from a retailer maintaining a place of business in this city or a retailer maintaining a place of business in this city or a retailer authorized by the city, under such rules and regulations as it may prescribe, to collect the tax imposed hereby and who shall, for the purpose of this division, be regarded as the retailer maintaining a place of business in this city, given to the purchaser in accordance with the provisions of section 30.76, shall be sufficient to relieve the purchaser from further liability for tax to which such receipt may refer.

(d) An excise tax is hereby imposed on the classes of tangible personal property, and at the rates imposed on such classes, specified in subsections (a), (b), and (c) of this section, on the storage, use or other consumption in the performance of a contract in this city of any such tangible personal property, new or used, the tax to be measured by the sales price of the fair and reasonable market value of such tangible personal property when put into use in this city, whichever is less. Provided, however, the tax imposed by this subsection shall not apply where the taxes imposed by subsections (a), (b), or (c) or this section apply.

(e) Any excise tax imposed by this section for activities outside the corporate limits of the city, but within the police jurisdiction thereof shall be taxed at a rate of one-half of the amounts respectively hereinabove levied for the same activities within the corporate limits of the city. The privilege or license taxes levied and imposed by this section are not levied for the purpose of raising revenue, but are levied for police and fire protection only.

Ord. No. 91-O-14, § 2, 4-9-91; Ord. No. 91-O-35, § 1, 10-22-91; Ord. No. 91-O-47, § 1, 12-10-91; Ord. No. 93-O-29, § 2, 8-24-93)

Sec. 30.73. Exemptions.

Taxes imposed by this division shall be subject to all exemptions as are provided in Article 2, Chapter 23, Title 40, Code of Alabama 1975, the State Use Tax Law, as now or hereafter

amended, all acts supplementary thereto except where inapplicable or where herein otherwise provided, all of which are adopted and made a part hereof by reference.

(Ord. No. 91-O-14, § 3, 4-9-91)

Sec. 30.74. Credit for sales or use tax paid to another city.

(a) *Generally.* If a sales or use tax equal to or greater than the amount of the Anniston tax is paid to another municipality in Alabama under a requirement of law, the property which is the subject of such tax, when imported for use or consumption in Anniston, is not subject to the use tax, which is required to be paid by sections 30.72 and 30.78. If the amount of tax paid to the other municipality in Alabama is less than the Anniston tax, then the difference between

the out-of-city tax and the Anniston tax must be paid. No credit will be allowed for taxes paid on tangible personal property in any municipality in Alabama which does not give credit for taxes paid on similar property in Anniston. The revenue director shall require such proof of payment of tax to another municipality as he deems to be necessary and proper.

(b) *Rules and regulations.* The revenue director shall adopt such rules and regulations as he deems necessary for the proper administration of this section.

(Ord. No. 9-O-14, § 4, 4-9-91)

Sec. 30.75. Retail sellers to register and give information; exceptions.

Every seller engaged in making retail sales of tangible personal property for storage, use or other consumption in this city, who: (a) qualifies to do business; (b) solicits and receives purchases or orders by agent or salesman, or (c) distributes catalogs or other advertising matter and by reason thereof receives and accepts orders from residents, within the city, shall, within twenty (20) days after the effective date of this division, register with the city and give the name and address of each agent operating in this city, the location of any and all distribution or sales houses or offices or other places of business, in this city, the number of persons in the city to whom catalogs are delivered, by mail or otherwise, the number of persons in the city from whom orders are received, by mail or otherwise, together with the amount of the purchase price charged and received, and such other information as the city may require with respect to matters pertinent to the enforcement of this division; provided, however, that this section shall not apply to a seller holding a license obtained pursuant to the provisions of Ordinance No. 91-O-13 known as city sales tax ordinance.

(Ord. No. 91-O-14, § 5, 4-9-91)

Sec. 30.76. Seller to collect tax; regulations; penalty.

Every such seller making sales of tangible personal property for storage, use or other consumption in this city, not exempted under the provisions of section 30.73, shall, at the time of making such sales, or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time such storage, use or other consumption becomes taxable hereunder, collect the tax imposed by this division from the purchaser, and give to the purchaser a receipt therefor in the manner and form prescribed by the city. The tax required to be collected by the seller from the purchaser shall be displayed separately from the list, advertised in the premises, marked or other price on the sales check or other proof of sales. It shall be unlawful for any such seller to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any part thereof imposed by this division will be assumed or absorbed by the seller or that it will not be added to the selling price of the property sold or if added then it or any part thereof will be refunded. Any person violating any of the provisions of this section shall upon conviction be punished as provided in section 1.14 of this Code. The tax herein required to be collected by the seller shall constitute a debt owed by the seller to this city.

(Ord. No. 91-O-14, § 6, 4-9-91)

Sec. 30.77. Seller to file returns.

The tax imposed by this division shall be due and payable to the city quarterly on or before the twentieth day of the month next succeeding each quarterly periods during which the storage, use or other consumption of tangible personal property becomes taxable hereunder, the first of such period being the period commencing with the first day of April, 1991, and ending the thirtieth day of June, 1991. Thereafter such returns shall be due for each calendar quarter. Every seller engaged in making retail sales of tangible personal property for storage, use or other consumption in this city, who: (a) qualifies to do business, (b) solicits and receives purchases or orders by agent or salesman, or (c) distributes catalogs or other advertising matter and by reason thereof receives and accepts orders from residents, within the city and/or its police jurisdiction shall, on or before the twentieth day of the month following the close of the first quarterly period as above defined, and on or before the twentieth day of the month following each subsequent quarterly periods of three (3) months, file with the city a return for the preceding quarterly period, in such form as may be prescribed by the city, showing the total sales price of the tangible personal property sold by such seller, the storage, use or consumption of which became subject to the tax imposed by this division, during the preceding quarterly period and such other information as the city may deem necessary for the proper administration of this division. The return shall be accompanied by a remittance of the amount of tax herein required to be collected by the seller during the period covered by the return. The revenue director for the city, if he deems it necessary in order to ensure payment to the city of the amount of tax herein required to be collected by sellers, may require returns and payment of such amount of tax for other than quarterly periods. Returns shall be signed by the seller or his duly authorized agent but need not be verified by oath. Every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the tax imposed by this division, and who has not paid the tax due with respect thereto to a seller required or authorized hereunder to collect the tax, shall, on or before the twentieth day of the month following the close of the first quarterly period as above defined, and on or before the twentieth day of the month following each subsequent period of three months, file with the city a return for the preceding quarterly period in such forms as may be prescribed by the revenue director showing the total sales price of the tangible personal property purchased by such person, the storage, use or other consumption of which became subject to the tax imposed by this division during the preceding quarterly period, and with respect to which the tax was not paid to a seller required or authorized hereunder to collect the tax, and such other information as the city may deem necessary for the proper administration of this division. The return shall be accompanied by a remittance of the amount of tax herein imposed and not paid to a seller required or authorized hereunder to collect the tax during the period covered by the return. The revenue director, if he deems it necessary in order to ensure payment to the city of the amount of such tax may require returns and payment for other than quarterly periods. Returns shall be signed by the person liable for the tax or his duly authorized agent, but need not be verified by oath. For the purpose of the proper administration of this division, and to prevent evasion of the tax and the duty to collect the same herein imposed, it shall be presumed that tangible personal property sold by any person for delivery in this city is sold for storage, use or other consumption in this city unless the person selling such property shall

have taken from the purchaser a certificate signed by and bearing the name and address of the purchaser to the effect that the property was purchased for resale and it shall be further presumed that tangible personal property shipped to this city by the purchaser thereof was purchased from a retailer on and after April 1, 1991, for storage, use or other consumption in this city. Any seller making cash and credit sales for storage, use or other consumption in the city may report such cash sales and shall thereafter include in each quarterly report all credit collections made during the preceding quarter and shall pay the taxes due thereon at the time of filing such report, but in no event shall the gross proceeds of credit sales be included in the measure of the tax to be paid until collections of such credit sales shall have been made. (Ord. No. 91-O-14, § 7, 4-9-91)

Sec. 30.78. Tax imposed on agricultural machinery or equipment; rate; who liable.

There is hereby levied and imposed an excise tax on the storage, use or other consumption in this city of any machine, machinery or equipment which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment, which is purchased at retail after the effective date of this division, for storage, use or other consumption in this city, at the rate of one-fourth of one (0.0025) percent of the sales price of such property. Provided, however, the one-fourth of one (0.0025) per cent rate herein prescribed with respect to parts, attachments and replacements, shall not apply to any automotive vehicle or trailer designed primarily for public highway use except farm trailers used primarily in the production and harvesting of agricultural commodities.

Every person storing, using or otherwise consuming in this city such tangible personal property purchased at retail shall be liable for the tax imposed by this division, and the liability shall not be extinguished until the tax has been paid to this city; provided, however, that a receipt from a retailer located outside the city, in accordance with provisions of State Code Section 40-23-67, shall be sufficient to relieve the purchaser from further liability for a tax to which such receipt may refer.

(Ord. No. 91-O-14, § 8, 4-9-91)

Sec. 30.79. Penalty for failure to pay tax.

Any person failing to pay any tax to the city or any amount of tax herein required to be collected and paid to the city, within the time required by this division, shall pay, in addition to the tax or the amount of tax herein required to be collected, a penalty of ten (10) percent thereof, plus interest, at the rate of one (1) percent per month, or fraction thereof, from the date at which the tax or the amount of tax herein required to be collected become delinquent, that is, due and payable to the city. The revenue director, if good and sufficient reason is shown, may waive and remit the ten-percent penalty or any portion thereof.

(Ord. No. 91-O-14, § 9, 4-9-91)

Sec. 30.80. City authorized to determine true amount of tax due; penalties.

If the city is not satisfied with the return and payment of the tax or the amount of the tax herein required to be paid to the city by any person, it is hereby authorized and empowered to compute and determine the amount required to be paid based upon the facts contained in the return or upon any information within its possession or that shall come into its possession. All amounts determined to be due under the provisions of this section shall bear interest at the rate of one (1) percent per month, or fraction thereof, from the twentieth day after the close of the period or periods, as the case may be, for which such amounts were required to be reported to the city until paid. If any part of the deficiency for which a determination of an additional amount due is made is due to negligence or intentional disregard of this division or authorized rules and regulations, a penalty of ten (10) percent of such amount shall be added thereto. If any part of the deficiency for which a determination of an additional amount is made is due to fraud or an intent to evade this division or authorized rules and regulations, a penalty of twenty-five (25) percent of such amount shall be added thereto. The revenue director shall give to the retailer or person storing, using or consuming tangible personal property written notice of his determination. Such notice may be served personally or by mail. If by mail, the notice shall be addressed to the retailer or person storing, using or consuming tangible personal property at his address as the same appears in the records of the city and sent by certified mail, return receipt requested.

(Ord. No. 91-O-14, § 10, 4-9-91)

Sec. 30.81. City to estimate tax due where no return made; penalties.

If any person making retail sales neglects or refuses to make a return required to be made by this division, the revenue director shall make an estimate for the period or periods in respect to which such persons failed to make a return, based upon any information in his possession, of the amount of the total sales price of tangible personal property sold or purchased by such person, the storage, use or other consumption of which in this city is subject to the tax imposed by this division and, upon the basis of the estimate, compute and determine the amount required to be paid to the city, adding to the sum thus arrived at a penalty equal to ten (10) percent thereof. All amounts determined to be due under the provisions of this section shall bear interest at the rate of one (1) percent per month, or fraction thereof, from the twentieth day after the close of the period or periods, as the case may be, for which such amounts were required to be reported to the city until paid. If the neglect or refusal of any person to file a return as required by this division was due to fraud or an intent to evade this division or rules and regulations hereunder, a penalty of twenty-five (25) percent of the amount required to be paid by such person shall be added thereto in addition to the ten-percent penalty as above provided. Promptly thereafter the revenue director shall give to such person written notice of such estimate, determination and penalty, the notice to be served personally or by mail in the same manner as prescribed for service of notice by the provisions of the preceding section. The revenue director, if good and sufficient reason is shown, may waive and remit the ten-percent penalty or any portion thereof.

(Ord. No. 91-O-14, § 11, 4-9-91)

Sec. 30.82. Jeopardy determination; petition for redetermination.

If the revenue director believes that the collection of any tax or any amount of tax herein required to be collected and paid to the city will be jeopardized by delay, he shall thereupon make a determination of such tax or the amount of tax herein required to be collected, noting that fact upon such determination and the amount thereof shall be immediately due and payable. If the amount specified in the determination is not paid within ten (10) days after the service upon the person against whom the determination is made of notice thereof, such amount becomes final at the expiration of such ten (10) days, unless a petition for redetermination is filed within such ten (10) days, and the delinquency penalty and the interest provided in section 30.79 shall attach to the amount of the tax required to be collected specified therein. The person against whom a jeopardy determination is made hereunder may petition for the redetermination thereof pursuant to section 30.83; provided, however, that such petition for redetermination must be filed with the revenue director within ten (10) days after the service upon such person of notice of the determination; and provided further, that such person must within the ten-day period deposit with the city such security as the revenue director may deem necessary to ensure compliance with the provisions of this division. Such security may be sold by the city in order to satisfy payment of any tax due hereunder.

(Ord. No. 91-O-14, § 13, 4-9-91)

Sec. 30.83. Redetermination; procedure; appeal.

Any person from whom an amount is determined to be due under the provisions of section 30.80 or 30.81 may petition for a redetermination thereof within thirty (30) days after service upon such person of notice thereof. If a petition for redetermination is not filed within the thirty-day period, the amount determined to be due becomes final at the expiration thereof. If a petition for redetermination is filed within the thirty-day period, the city shall reconsider the amount determined to be due, and if such person has so requested in his petition, shall grant such person, his agent or attorney an oral hearing and shall give such person ten (10) days' notice of the time and place thereof. The city shall have power to continue the hearing, from time to time, as may be necessary. The order or decision of the city upon a petition for redetermination shall become final thirty (30) days after service upon such person of notice thereof. All amounts determined to be due by the city under the provisions of section 30.80 or 30.81 shall become due and payable at the time they become final and, if not paid when due and payable, there shall be added thereto a penalty of ten (10) percent of the amount determined to be due. Any notice required by this section shall be served personally or by mail in the same manner as prescribed for service of notice by the provisions of section 30.80. From the final determination as is provided for in this division, any taxpayer who has filed a petition for redetermination, may appeal to the Circuit Court of Calhoun County, Alabama, as provided by Section 40-2-22 of The Code of Alabama, 1975. On such appeal the court may, in its discretion, determine as to whether or not the penalty provided for in this section is to be imposed upon the taxpayer.

(Ord. No. 91-O-14, § 14, 4-9-91)

Sec. 30.84. Extension of time for making return.

The city, for good cause, may extend for not to exceed thirty (30) days the time for making any return required under the provisions of this division.

(Ord. No. 91-O-14, § 14, 4-9-91)

Sec. 30.85. Deposit of security.

The city, whenever it deems it necessary to ensure compliance with the provisions of this division, may require any person subject thereto to deposit with it such security as the city may determine. The same may be sold by the city at public auction if it becomes necessary to do so in order to recover any tax, or any amount herein required to be collected, interest or penalty due. Notice of such sale may be served upon the person who deposited such security personally or by certified mail; if by mail, service shall be made by certified notice, return receipt requested, addressed to the person at his address as the same appears in the records of the city. Upon any such sale, the surplus, if any, above the amounts due under this division shall be returned to the person who deposited the security.

(Ord. No. 91-O-14, § 15, 4-9-91)

Sec. 30.86. When notice of additional amount due must be mailed; exceptions.

Except in the case of a fraudulent return, or neglect or refusal to make a return, every notice of a determination of an additional amount due shall be mailed within three (3) years after the return is filed.

(Ord. No. 91-O-14, § 16, 4-9-91)

Sec. 30.87. Interest.

All taxes or amounts herein required to be collected not paid to the city on the date when the same became due and payable shall bear interest at the rate of one (1) percent per month, or a fraction thereof, from and after the date when the same became due and payable until paid.

(Ord. No. 91-O-14, § 17, 4-9-91)

Sec. 30.88. Excess payments.

If upon examination it is determined by the city that an amount of tax or an amount required to be collected has been paid to the city in excess of the amount properly due, then the amount in excess shall be credited against any tax or amount required to be collected then due from such person and any balance of such excess shall be refunded to such person by whom such overpayment was made, by certificate of overpayment issued by the revenue director.

(Ord. No. 91-O-14, § 18, 4-9-91)

Sec. 30.89. Penalty for fraud or evasion.

If fraud or evasion on the part of any person is discovered by the city, it shall determine the amount by which the city has been defrauded, shall add to the amount so determined a penalty equal to twenty-five (25) percent thereof, and shall determine the same to be due from

such person. All amounts determined to be due from any person under the provisions of this section shall bear interest at the rate of one (1) percent per month, or fraction thereof, from the fifteenth day after the close of the period or periods, as the case may be, from which such amounts shall have been paid. The amounts so determined shall be immediately due and payable and, if not paid within ten (10) days after the service upon such person of notice of the amount determined to be due, the delinquency penalty and interest provided in section 30.79 shall attach thereto.

(Ord. No. 91-O-14, § 19, 4-9-91)

Sec. 30.90. Tax lien.

The tax or any amount required to be collected hereunder, together with interest and penalties imposed by this division, shall be a lien upon the property of the person required to pay such tax or other amount to the city, which lien shall attach as of the date the tax is due and shall be superior to all other liens, except the lien of the state, county and municipal corporations for taxes. Said lien may be recorded at the office of probate judge by the revenue director of the city or his authorized representative.

(Ord. No. 91-O-14, § 20, 4-9-91; Ord. No. 94-O-33, § 1, 7-26-94)

Sec. 30.91. Records to be kept; city authorized to make regulations, etc.

Every seller and every person storing, using or otherwise consuming in this city tangible personal property purchased from a retailer shall keep such records, receipts, invoices and other pertinent papers in such form as the city may require. The city, or any person authorized in writing by it, is hereby authorized to examine the books, papers, records and equipment of any person selling tangible personal property and any person liable for the tax imposed by this division and to investigate the character of the business of any such person, in order to verify the accuracy of any return made, or if no return was made by such person, to ascertain and determine the amount required to be paid hereunder. The revenue director is hereby charged with the enforcement of the provision of this division and is hereby authorized and empowered to prescribe, adopt and enforce rules and regulations relating to the administration and enforcement of the provisions of this division.

(Ord. No. 91-O-14, § 21, 4-9-91)

Sec. 30.92. Unlawful to make public confidential information.

It shall be unlawful for any person having an administrative duty under this division to divulge or to make known in any manner whatever, the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of any official duty, or the amount or sources of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; provided, however, the revenue director may authorize examination of such returns by other tax officers

of the state or federal government. Any violations of the provisions of this section shall, upon conviction, be punishable by a fine not exceeding one hundred dollars (\$100.00) or by imprisonment in the city jail not exceeding six (6) months, or both.

(Ord. No. 91-O-14, § 22, 4-9-91)

Sec. 30.93. Disposition of funds derived from tax.

The proceeds from the taxes herein levied shall be placed in the general fund of the city, subject to appropriation by the city council for any lawful purpose of the city.

(Ord. No. 91-O-14, § 23, 4-9-91)

Sec. 30.94. Statute of limitations.

At any time prior to the expiration of three (3) years after any amount herein required to be collected has become due and payable, the city may bring an action in any appropriate court to collect the amount delinquent, together with penalties and interest.

(Ord. No. 91-O-14, § 24, 4-9-91)

Sec. 30.95. Penalties.

Any seller or other person failing or refusing to furnish any return hereby required to be made, or failing or refusing to furnish a supplemental return or other data required by the city, or rendering a false or fraudulent return, shall upon conviction be subject to a fine of not exceeding one hundred dollars (\$100.00) for each such offense. Any person required to make, render, sign or verify any report as aforesaid who makes any false or fraudulent return, with intent to defeat or evade the determination of an amount due as required by law to be made, shall for each such offense upon conviction be fined not less than twenty-five dollars (\$25.00) and not more than one hundred dollars (\$100.00) or be imprisoned not exceeding six (6) months in the city jail or be subject to both such fine and imprisonment, in the discretion of the court. Any violation of the provisions of this division, except as otherwise herein provided shall be punishable as provided in section 1.14 of this Code.

(Ord. No. 91-O-14, § 25, 4-9-91)

Secs. 30.96–30.100. Reserved.